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2 NOT FOR PUBLICATION  
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6 UNITED STATES BANKRUPTCY COURT  
7 EASTERN DISTRICT OF CALIFORNIA

8 In re

Case No. 11-16272-A-7

9 STEVEN MATTHEW GRIFFIN and  
10 CINDY CHRISTINA RUSSELL  
11

12 Debtor.  
13 \_\_\_\_\_ /

Adv. No. 11-1218

14 CHRISTOPHER C. CARTER and  
15 TERRI GRIFFIN  
16

17 Plaintiff,  
18

vs.

19 STEVEN MATTHEW GRIFFIN and  
20 CINDY CHRISTINA RUSSELL, Debtors, and  
JEFFERY M. VETTER, Chapter 7 Trustee

21 Defendant.  
22 \_\_\_\_\_ /

23 MEMORANDUM DECISION REGARDING SECTION 523(A)(5), (15) ACTION

24 This is an adversary proceeding brought by Terri L. Griffin and Christopher C. Carter, her  
25 family law attorney, to bar the discharge by Steven M. Griffin of attorneys fees of \$21,000.00  
26 awarded in a family law proceeding that predates the Chapter 7 bankruptcy. Terri L. Griffin  
27 proceeds under § 523(a)(5), (15); Christopher C. Carter proceedings under § 523(a)(5).  
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At the parties' joint request this matter was tried on stipulated facts. At the hearing on

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1 December 18, 2012, the parties stipulated that in ruling on the matter that the court should  
2 consider only four documents, and the attachments thereto: (1) Joint Statement of Mutually  
3 Agreed Upon Disputed and Undisputed Facts, August 31, 2012, ECF No. 62; (2) Request for  
4 Judicial Notice, September 15, 2012, ECF No. 64; (3) Request for Judicial Notice, October 26,  
5 2012, ECF No. 68; and (4) Request for Judicial Notice, December 20, 2012, ECF No. 74.

6 The parties agree: (1) Terri Griffin is the former spouse of Steven M. Griffin; (2) as a part  
7 of marital dissolution proceeding Steven M. Griffin was order to pay Terri L. Griffin attorneys  
8 fees of \$21,000; (3) the attorneys fees was upheld after an appeal by Steven M. Griffin; and (4)  
9 that the fee remain unpaid. The parties disagree: (1) whether the rights were assigned by Terri L.  
10 Griffin to Christopher C. Carter; (2) what the fees were for; and (3) whether the debt is non-  
11 dischargeable under 11 U.S.C. § 523(a)(5), (15).

12 Because the parties have very narrowly tailored the evidence to be reviewed the decision  
13 is an easy one. As to Christopher Carter, Terri Griffin's attorney, judgment will be entered for  
14 defendant Steven M. Griffin. The attorneys fees were awarded directly to Terri Griffin. *See*,  
15 Findings and Order After Hearing ¶8, April 3, 2008. Those fees were not awarded to Christopher  
16 C. Carter. *Id.* The narrow record before the court does not reflect any evidence that Terri L.  
17 Griffin assigned her rights to these fees. While it is true that the plaintiffs have alleged  
18 assignment, Second Amended Complaint ¶¶ 6, 30, these records were not a part of the stipulated  
19 record and, therefore, not considered. As a result, plaintiff Christopher C. Carter has not  
20 sustained his burden of proof.

21 As to Terri L. Griffin, judgment will be for the plaintiff and against Steven M. Griffin.  
22 Plaintiff Terri Griffin has pled causes of action under 11 U.S.C. § 523(a)(5), (15); *see also*, 11  
23 U.S.C. § 101(14A). Between those two sections all--or virtually all--debts incurred to a spouse  
24 or former spouse as a part of a divorce or separation decree are nondischargeable. March, Ahart  
25 & Shapiro, *California Practice Guide: Bankruptcy*, Discharge and Dischargeability § 22:270  
26 (Rutter Group 2012). As a consequence, the court need not decide whether the particular debt  
27 falls under § 523(a)(5) or § 523(a)(15). The court believes that only four exceptions to the rule  
28 exist: (1) debt to third parties, 11 U.S.C. § 523(a)(15) (limits relief to spouse, former spouse or

1 child); (2) non-domestic support family law obligations which are dischargeable in Chapter 13,  
2 11 U.S.C. § 1328(a); (3) circumstances where there is no divorce of separation proceeding filed  
3 on the date of the petition, *In re Heilman*, 430 B.R. 213, 218 (B.A.P. 9th Cir. 2010); and (4) non-  
4 domestic support obligations for cases filed prior to October 17, 2005, 11 U.S.C. § 523(a)(15)  
5 (limited balancing of hardship defense). None of these exceptions are applicable in this Chapter  
6 7 filed subsequent to the effective date of The Bankruptcy Abuse Prevention and Consumer  
7 Protection Act of 2005. As a consequence, the court need not answer the question as to the  
8 reason the family law court awarded attorneys fees.

9 Susan Hemb, attorney for the plaintiffs, will prepare and lodge a judgment consistent with  
10 the findings herein.

11 Dated: February 14, 2013



Fredrick E. Clement  
United States Bankruptcy Judge

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